LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6596
BILL NUMBER: SB 212

NOTE PREPARED: Feb 17, 2015
BILL AMENDED: Feb 17, 2015

SUBJECT: Inmates and Medicaid.

FIRST AUTHOR: Sen. Miller Patricia
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes the Department of Correction (DOC) an inmate's authorized representative for applying for Medicaid for inmates who are potentially eligible for Medicaid and who incur medical care expenses that are not otherwise reimbursable. The bill requires the DOC and the Office of the Secretary of Family and Social Services (FSSA) to enter into an agreement in which the DOC pays the state share of the Medicaid costs incurred for the inmate.

The bill makes the sheriff the individual's authorized representative for applying for Medicaid for individuals subject to lawful detention who are potentially eligible for Medicaid. It requires a sheriff to enter into an agreement with the FSSA to pay the state share of the Medicaid costs incurred for the individuals.

The bill specifies reimbursement for the services provided.

Effective Date: July 1, 2015.

Explanation of State Expenditures: (Revised) *Summary:* This bill may increase the amount of Medicaid reimbursement that may be claimed due to inpatient admissions of eligible inmates or individuals subject to lawful detention in medical care facilities by authorizing the DOC or a sheriff to apply for Medicaid eligibility in those instances where an inmate is unable or unwilling to authorize the Medicaid application. Currently, inmates or detainees that require inpatient medical care and are otherwise eligible for Medicaid may be enrolled in Medicaid in order to allow the facility and other health care providers that provide inpatient services to bill the Medicaid program rather than DOC. This would allow DOC and the counties to leverage Medicaid federal financial participation rather than using 100% state or county dollars to pay for the inmate's inpatient care. DOC and the counties will realize a 4% savings on Medicaid qualified billings

since they will be paying Medicare inpatient rates instead of Medicare +4%.

The Indiana Medicaid program and DOC began implementation of this program on December 19, 2014. It is too soon to have data to indicate the level of savings that might be realized. The amount of savings to be realized by the state and the counties will depend on the number and length of qualifying inpatient stays provided off site, whether the inmate is categorically eligible or eligible under the Healthy Indiana Plan (HIP 2.0) Medicaid expansion, the amount of administrative expense to be reimbursed to FSSA, and the amount currently being spent for qualified inpatient admissions.

No data has been made available to allow an estimate of the level of savings that might accrue to the DOC. The experience of other states indicates that under categorical Medicaid eligibility, the DOC might expect to bill about $2.5 M annually to Medicaid. This would result in federal reimbursement of about $1.6 M per year. Few, if any, states have implemented the program to include county sheriffs due to the complexity of the administrative process, although the literature indicates that counties could benefit from this program. The Medicaid expansion under HIP 2.0 will increase the amount of savings that may be realized through the increased numbers of incarcerated adults that may now have qualified inpatient services reimbursed under Medicaid at enhanced federal reimbursement rates.

(Revised) *Additional Information:* Current statute [IC 11-10-3-6] requires the DOC or a county to reimburse a hospital, physician, or another health care provider at the federal Medicare rate plus 4%. If there is no Medicare rate for the health care service provided, the reimbursement is set at 65% of the hospital charge description master or the physician's or other health care provider's charge. Medicaid hospital inpatient reimbursement is currently aligned with Medicare rates, while physician services for State Plan services are reimbursed at approximately 60%. Currently, billing inpatient hospital, physician, and other health care providers through Medicaid would result in a savings simply due to the fact that Medicaid payments will not include the 4% add on for hospital payments or the approximately 5% increase for physician and other health care provider payments. The bill specifies that the Medicare + 4% rate does not apply to individuals eligible for Medicaid.

Categorically Eligible Individuals: The DOC and counties taking part in the program would be expected to reimburse Medicaid the 33.5% state Medicaid match for qualified billings of physicians and inpatient service providers for categorically eligible individuals. However, the bill also provides that the DOC and counties must reimburse the state share of the portion of the hospital bill currently financed by the Hospital Assessment Fee (HAF) - the incremental cost of the Medicare hospital rate less the Medicaid rate. If it is assumed that the Medicare inpatient hospital rates are 130% of the Medicaid rate, the total state share for the categorically eligibles will be approximately 41%. If FSSA includes a 4% administrative cost as is done for school corporation Medicaid claims, the total amount to be reimbursed by DOC and the counties would be about 45% - resulting in a savings of at least 55% for the DOC and counties. The categorically eligible population (pregnant women, aged, blind, disabled, and TANF-eligible caretakers or parents) would be expected to comprise a smaller percentage of the eligible adult population with the advent of the HIP 2.0 expansion.

Medicaid Expansion Newly Eligible Adults: Under HIP 2.0, the expense of services for the newly eligible adults will be federally reimbursed at 100% for the first 6 quarters of the upcoming budget biennium; the final 2 quarters will be reimbursed at 95 %. [See *Explanation of State Revenue below.*] The bill specifies that the DOC and the county reimbursement must reflect the state cost without using the Indiana Check-Up Trust Fund or the Hospital Assessment Fee contributions that finance the HIP 2.0 model.

Savings under Medicaid Expansion: Under the Governor's HIP 2.0 Medicaid expansion waiver approved January 27, 2015, adults under the age of 65 with income below 138% of the federal poverty level are eligible for Medicaid alternate benefit plan services . The savings potential of billing Medicaid for qualified inpatient stays will be magnified with the Medicaid expansion. This is particularly the case since the expansion population is eligible for enhanced federal participation. [See *Explanation of State Revenues* for the enhanced match rates.] (The state of Michigan has estimated that up to 80% of prisoners and parolees would become eligible for Medicaid.) There are no data at this time to indicate the current cost of inpatient care provided by the DOC or the counties. An estimate on potential savings to the DOC and the counties under the Medicaid expansion will be added if information is made available.

The incarcerated expansion population does not fit into the managed care HIP 2.0 model. Inmates would be covered on a fee-for-service basis for a range of covered inpatient services. It is not clear if the state would need a waiver or a state plan amendment to add this program alongside the HIP 2.0 expansion waiver.

Currently, the Medicaid Act provides an exception to the inmate prohibition for federal matching funds when a resident or inmate becomes an inpatient in a medical institution such as a hospital or nursing facility that is not under the control of the state's correctional system. (This exception also applies to patients of state-run institutions for the developmentally disabled and the mentally ill.) CMS has clarified that federal matching funds would be available when a resident or inmate is admitted as an inpatient to a hospital, nursing facility, juvenile psychiatric facility, or ICF-MR for at least 24 hours, provided that they are eligible for or meet eligibility criteria for Medicaid such as income eligibility or level-of-care requirements for long-term care.

The inmate exception could result in some savings with regard to inmates or residents that are eligible for Medicaid who require inpatient services. An example would be inpatient labor and delivery services for pregnant women or inpatient services for an aged, blind, or disabled inmate that cannot be provided within the secure facility. Additionally, medical services provided for inmates' infants that are boarded in the facility should be an allowable service. Current statute (IC 11-10-3-7) requires DOC or the counties to determine if an inmate requiring medical services has insurance or may be covered by Medicaid. The extent to which this determination is made, especially in the counties, is not known. The DOC and Medicaid just started the implementation of eligibility determination as of December 19, 2014.

Explanation of State Revenues: Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 33.5% for most current services. Current Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 66.5%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. Under provisions of the ACA, the enhanced FMAP for the expansion population will be:

(1) 100% for CY 2014, 2015, and 2016;
(2) 95% in CY 2017;
(3) 94% in CY 2018;
(4) 93% in CY 2019; and
(5) 90% in CY 2020 and thereafter.

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues: See *Explanation of State Revenues*.

State Agencies Affected: FSSA, DOC.

Local Agencies Affected: County sheriffs.

Information Sources: FSSA, DOC, Stateline, "Medicaid for Prisoners: States Missing out on Millions" at:http://www.usatoday.com/story/news/nation/2013/06/25/stateline-medicaid-prisoners/2455201/ . "State Notes, Topics of Interest", April 2013, "Corrections Healthcare Overview and Potential Medicaid Savings", by Dan O'Connor, at: http://www.senate.michigan.gov/sfa/publications%5Cnotes%5C2013notes%5Cnotesspr13do.pdf Departments of Medical Assistance and Corrections, Joint Report on Inmate Medicaid Assistance, Oct. 1, 2014 at: http://jchc.virginia.gov/3%20DOC%20Report%20on%20Medicaid%20Eligibility%20Program.pdf

Fiscal Analyst: Kathy Norris, 317-234-1360.